

GUIDEBOOK FOR CANDIDATE COMMITTEES



*State of Hawaii
Campaign Spending Commission
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CANDIDATE COMMITTEE GUIDEBOOK

Introduction

The Hawaii Campaign Spending Commission (“Commission”) has prepared this Guidebook to assist candidate committees in complying with the requirements of the campaign finance laws. Also available is the “Treasurer’s Guidebook for Candidates and Noncandidate Committees” to assist campaign treasurers with developing and maintaining an organized recordkeeping system for contributions and expenditures as well as the “Candidate Filing System Manual” to assist candidate committees in using the Commission’s electronic filing system to properly file periodic disclosure reports. This Guidebook and other publications are intended to provide general guidance only. All candidates, chairpersons, treasurers, and other persons assisting the candidates should review the campaign finance laws and rules.¹ All of the Commission’s resources including a link to login to the candidate electronic filing system to file your reports are available on our website at <http://www.hawaii.gov/campaign>.

Office of Elections will also provide a link on their website directing candidates to the Commission’s website.

For Assistance

The Commission’s office is open from 7:45 a.m. to 4:30 p.m. Monday through Friday. The office is closed on State holidays.

If there are any questions regarding the law or the Candidate Filing System (“CFS”), please visit our website or contact our office:

Website: <http://www.hawaii.gov/campaign>

Campaign Spending Commission
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 300
Honolulu, Hawaii 96813
Telephone: (808) 586-0285
Fax: (808) 586-0288

I. REGISTRATION

Registration with the Commission as a candidate committee is required within **ten (10) days** of the earlier of either event occurring:

- You file nomination papers for a state or local office with the Office of Elections or County Clerk’s Office; or

¹ The laws and rules take precedence over any provisions in this Guidebook. Moreover, each campaign is different; the candidate and the candidate committee may be faced with issues and factual circumstances that differ from or are not addressed in this Guidebook.

- You receive contributions or make or incur expenditures in an aggregate amount of more than \$100 for the purpose of influencing your nomination for election or election to office.

Registering with the Commission means electronically filing an Organizational Report in the CFS. In order to access or login to the CFS, the candidate committee must complete and submit an Electronic Filing Form to obtain a username and password.

Electronic Filing Form

The registration process begins by completing the “Candidate Committee Electronic Filing Form” which is available on the Commission’s website under “Candidate Committees” and under “Forms” or go to <http://ags.hawaii.gov/campaign/cc/cc-forms-2/>. The form can then be submitted by eSign or by completing, printing, and signing a Writable/Printable PDF.

- An eSign form is submitted by email. The candidate, chairperson, and treasurer will complete their individual eSign form if one person is not serving as all three. Each user will confirm their identity through an email authentication process which will send the completed eSign form to the Commission.
- For Writable/Printable PDFs, the candidate, chairperson, and treasurer must complete, print, sign, and mail or deliver the form to the Commission’s office at 235 South Beretania Street, Room 300, Honolulu, Hawaii 96813.

By signing this form, the candidate and treasurer acknowledge and certify that the information on all reports electronically filed online are true, complete, and accurate. This form also represents written acceptance of appointment for the chairperson and treasurer. The Commission will email a username and password to access the CFS to the email address provided on the form.

Organizational Report

The candidate may access the CFS from the Commission’s website. Under “Candidate Committees,” click on “Candidate Filing System,” then click on “Candidate Committee Filing System (“CFS”) Login” or go to <https://csc.hawaii.gov/CFS/>. Login by entering the Administrator username and password that were emailed to you.

The Organizational Report requires the following information:

- **Name and Mailing Address of the Candidate and Candidate Committee**
The candidate name, committee name, mailing address, business and residence phone numbers are required. The mailing address is the address that the Commission will use to mail correspondence and notices to the candidate. It is therefore very important that this information is kept current because by law all Commission correspondence will go to the address listed via first class mail. The Commission may also try to call you so it is important that the phone numbers listed are current. The candidate must also provide:

a webpage address (if the candidate has one), the office sought, district, county, and party affiliation.

- Chairperson and Deputy Chairperson

The candidate must appoint at least one (1) chairperson. The candidate may appoint themselves as chairperson. The chairperson's name, mailing address, and business and residence phone numbers must be provided. The chairperson must also eSign or sign the "Candidate Committee Electronic Filing Form" to certify acceptance of the appointment.

A deputy chairperson may be appointed, but is not required. If a deputy chairperson is appointed, the candidate must provide the name, mailing address, and business and residence phone numbers of the deputy chairperson. The candidate may appoint themselves as a deputy chairperson.

- Campaign Treasurer and Deputy Campaign Treasurer

The candidate must appoint at least one (1) campaign treasurer. The candidate may appoint themselves as treasurer; **however, it is strongly recommended that the treasurer be someone other than the candidate since the role of the treasurer in compliance with campaign finance law is significant.** The treasurer's name, mailing address, and business and residence phone numbers must be provided. The treasurer must also eSign or sign the "Candidate Committee Electronic Filing Form" to certify acceptance of the appointment in addition to the certification that the information on all electronically filed reports are true, complete, and accurate.

A deputy campaign treasurer may be appointed, but is not required. Up to five (5) deputy treasurers may be appointed. If a deputy treasurer is appointed, the candidate must provide the name, mailing address, and business and residence phone numbers of the deputy treasurer. The candidate may appoint themselves as a deputy treasurer.

Only an appointed campaign treasurer and deputy campaign treasurer are authorized to receive contributions and make expenditures on behalf of the candidate committee. Typically, these are the authorized people on the campaign bank's signature card. In case of death, resignation, or removal of the treasurer, the candidate committee shall promptly appoint a successor. During the period the office of treasurer is vacant, the candidate or chairperson shall serve as treasurer. Once a successor is appointed, an amended "Candidate Committee Electronic Filing Form" must be submitted to the Commission and then an amended Organizational Report must be electronically filed with the Commission within **ten (10) days** of the appointment to disclose the name of the successor with the updated mailing address, and business and residence phone numbers.

- Committee Depository (Bank)

The candidate must open a depository (e.g., a bank account) to deposit contributions and to make expenditures. The candidate must provide the name and address of the depository institution in which the committee will maintain its campaign account and each applicable account number. The

depository must be opened at a financial institution such as a bank, savings bank, savings and loan association, depository financial services loan company, credit union, intra-Pacific bank, or similar financial institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, or the national credit union administration in the name of the candidate or candidate committee.

Campaign funds must not be commingled with a candidate's personal or any other funds.

Amended Organizational Report

It is very important that the information listed on a candidate committee's Organizational Report is kept current. Whenever there is a change in a chairperson or treasurer ("officer"), a new "Candidate Committee Electronic Filing Form" must be submitted to the Commission with the signature or the eSign signature of the candidate and that of the new officer(s). The Commission will input the name(s) of the new officer(s). The committee must then update the contact information for the new officer(s) within the CFS. Under "Administration," click on "Organizational Report," then "Amend," and enter the required information.

Amended Organizational Reports must be electronically filed no later than **11:59 p.m. Hawaiian standard time on the tenth (10th) calendar day** after the change is brought to the attention of the committee chairperson or treasurer.

An elected official who is a candidate for re-election to the same office in successive elections is not required to re-file the Organizational Report if the official has not sought election to any other office during the period between elections unless there is a change in information required to be reported.

II. KEEPING RECORDS

Complete records of contributions and expenditures must be maintained for at least **five (5) years** and the records shall include "bank records, with respect to the matters required to be reported, vouchers, worksheets, receipts, bills, and accounts, which shall provide in sufficient detail the necessary information and data with which the filed reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness." The candidate, chairperson, and treasurer should refer to the "Treasurer's Guidebook for Candidates and Noncandidate Committees" for assistance with developing and maintaining an organized recordkeeping system for contributions and expenditures.

Recording Contributions (Monetary and Non-Monetary)

The treasurer must establish and maintain an itemized record showing the name, address, and amount of each monetary contribution as well as the description and fair market value of each non-monetary contribution. The Commission recommends the establishment and maintenance of itemized records of all contributions to ensure compliance with the requirement that the candidate and treasurer report all contributions aggregating more than \$100 during the election period.

The law requires that contribution records be kept as follows:

For contributions that are more than \$25, but less than \$100:

- Date of receipt and deposit;
- Contributor's full name and address; and
- Contribution amount.

For contributions of more than \$100:²

- Date of receipt and deposit;
- Contributor's full name and address;
- Contribution amount; and
- Contributor's employer and occupation (if the contribution aggregates \$1,000 or more during the election period).

All contributions must be deposited into the committee's designated depository institution within seven (7) days after it is received. The date a contribution is deposited is deemed to be the date the contribution is received for purposes of reporting. A non-monetary contribution shall be reported at the contribution's reasonable market value on the date received.

Recording Expenditures

The candidate and treasurer must itemize all expenditures to consultants, advertising agencies and similar firms, credit card payments, salaries, and committee reimbursements to the candidate or other individuals to permit a reasonable person to determine the ultimate intended recipient of the expenditures and their purpose. The use of debit cards must be strictly monitored to prevent the misuse of campaign funds and to ensure that all purchases made via the committee's debit card are timely and accurately reported on the committee's disclosure reports as expenditures.

The law requires that expenditure records be kept as follows:

- Date of expenditure;
- Vendor's full name and address;
- Authorized use (campaign funds only used for certain purposes);
- Purpose of the expenditure (a brief description of why the expenditure was made); and
- Amount of the expenditure.

Expenditures reported under vague purposes or consolidated into categories such as petty cash, VISA, Master Card, reimbursement to employee, or ad agency, will not meet the requirements of the campaign finance laws. All expenditures made, incurred, or authorized by or for the candidate must be reported, including the name and address of each vendor and the amount, date, authorized use, and purpose of the expenditure. Expenditures are reported based on the date that the goods are delivered or the service

² If the information required for the contributions of more than \$100 is not on file, the contribution shall be returned to the contributor within **thirty (30) days** of deposit.

is rendered to the candidate committee. Financial institutions, individuals reimbursed for expenses, lump sum cash payments, and advertising or employment agencies are viewed as intermediaries of expenditures. Any use of intermediaries that would have the result of concealing the true and complete nature of the expenditure will not meet the requirements of the campaign finance laws.

Reports that describe the purpose in vague terms or fail to include the name of the vendor for the expenditure are defective and subject to a fine and/or additional remedies including a court order.

III. REPORTING ON THE CFS

By law, if you run for an office in the State of Hawaii or its counties, you are required to electronically file reports even if you raise no money, self-fund your campaign, or spend zero dollars. The U.S. Supreme Court has stated that voters should know who elected officials' and candidates' contributors are in order to understand who may have an influence on their decisions and which special interests they may support.³

Transparency and disclosure of contributions and expenditures are therefore critical to informed voting, the integrity of the electoral process, and to deter actual corruption or avoid the appearance of corruption.

As such, the candidate and treasurer are required to electronically file a series of disclosure reports on the CFS in accordance with a reporting schedule which has been set by law. These reporting schedules are available on the Commission's website.

All candidate disclosure reports shall be filed electronically on the CFS. There are no exceptions or waivers.

To be timely filed, the reports must be electronically filed on or before **11:59 p.m. Hawaiian standard time** on the filing deadline. Failure to file the required report by the applicable deadline will result in monetary fines and/or additional remedies including a court order. Moreover, if you are elected to serve in the State of Hawaii or its counties and have not filed your disclosure reports,⁴ or if you have unpaid fines that the Commission has assessed against you, the Commission will not be able to certify to the Chief Election Officer or County Clerk that you are in compliance, and thus, you will not receive your certificate of election and be sworn into office.

The Commission's staff is available during office hours (7:45 a.m. – 4:30 p.m. Monday through Friday) to provide assistance. Office hours **do not** extend until 11:59 p.m. on filing dates.

Disclosure Reports

The disclosure report is a summary of contributions received, expenditures made, other receipts, loans, unpaid expenditures, and durable assets for the applicable reporting

³ See, Buckley v. Valeo, 429 U.S. 1, 67, 96 S.Ct. 612, 658 (1976).

⁴ Effective July 5, 2017, candidates elected into office shall file the Final Election Period Report three (3) business days before the date the candidates are to be sworn into office. See, Act 97, SLH 2017.

period. Each of these areas has its own schedule and must be electronically filed for each report.

- Schedule A Contributions;
- Schedule B Expenditures Made;
- Schedule C Other Receipts;
- Schedule D Loans;
- Schedule E Unpaid Expenditures; and
- Schedule F Durable Assets.

Although each disclosure report has a different name depending on what period it covers (i.e., Supplemental Report, 1A Preliminary Primary Report, 1B Preliminary Primary Report, 2nd Preliminary Primary Report, Final Primary Report, 1st Preliminary General Report, 2nd Preliminary General Report, and Final Election Period Report), they all require you to complete the schedules mentioned above for any activity pertaining to that schedule. As you file each report, the closing cash on hand for the current reporting period will “carry over” as the beginning cash on hand for the next reporting period. Until you terminate your registration with the Commission (see Part XI), a disclosure report must be timely filed even if you have no contributions and no expenditures for that reporting period.

For detailed instructions on electronically filing these schedules with your disclosure report, please refer to the “Candidate Filing System Manual.”

Non-Election Year Reporting

Non-election years are odd-numbered years in which there are no regularly scheduled state and local elections.

Two (2) Supplemental Reports must be filed in nonelection years. When a reporting deadline falls on a holiday or weekend, the deadline shall be the first working weekday after the date the report is due.

- The 1st Supplemental Report, covering campaign financial activity from January 1st through June 30th of a nonelection year, must be filed no later than **11:59 p.m. Hawaiian standard time on July 31st**.
- The 2nd Supplemental Report, covering campaign financial activity from July 1st through December 31st of a nonelection year, must be filed no later than **11:59 p.m. Hawaiian standard time on January 31st**.

Supplemental Reports must be filed until a candidate files nomination papers to be on the election ballot, in which case, the candidate will have to file the election year disclosure reports mentioned below, unless the candidate terminates their committee’s registration with the Commission. If a candidate is an elected official and is term-limited in seeking another term for that office, they must file an Organizational Report with the Commission disclosing what office they will run for in the subsequent election if they receive contributions and have no deficit/debt or receive contributions that exceed the deficit/debt.

Election Year Reporting

Please refer to your office's Reporting Schedule located on our website under "Candidate Committees," then select "Reporting Deadlines" or go to <http://ags.hawaii.gov/campaign/cc/cc-reporting-schedules/>. When a reporting deadline falls on a holiday or weekend, the deadline shall be the first working weekday after the date the report is due.

Reporting for Candidates with Aggregate Contributions and Expenditures of \$1,000 or Less

By June 30th of an election year, a candidate who does not plan to receive aggregate contributions and make aggregate expenditures of more than \$1,000 for the election period must notify the Commission by checking the appropriate box when completing the "Candidate Committee Electronic Filing Form" or by checking the appropriate box in the committee's organizational report in the CFS, if the committee is already registered with the Commission. A candidate whose aggregate contributions and expenditures for the election period total \$1,000 or less, need only electronically file the Final Election Period Report which is due thirty (30) days after a general election. For candidates elected into office that will be sworn-in prior to the Final Election Period Report deadline, the Final Election Period Report is due three (3) days before their swearing in date.

Notably, if the candidate exceeds the \$1,000 threshold at any time during the election period, the candidate must file the next required report (i.e., preliminary, final, or special election report) and disclose all activity from the beginning of the election year through the reporting period in which the threshold was exceeded. All subsequent reports must be filed thereafter until the candidate terminates their committee's registration with the Commission or enters a subsequent election year in which the candidate committee does not plan to receive aggregate contributions or make aggregate expenditures of more than \$1,000 for that election period.

Late Contributions Report

The Late Contributions Report is a special report which must be electronically filed by a candidate who is on the ballot and receives contributions aggregating more than \$500 from any person within the period of fourteen (14) calendar days through four (4) calendar days prior to a primary, special primary, general, or special general election. The report is required to be electronically filed no later than **three (3) calendar days** prior to the applicable election. If your committee did not receive any late contributions or if you are not on the ballot for that election, you do not have to file this report.

The report requires the following information:

- Date of the contribution;
- Name and address of the contributor;
- Employer and occupation of the contributor;
- Contribution amount; and

- Aggregate contribution amount from the contributor for the late contribution period.

Late contributions will also be automatically reported on the applicable final disclosure reports.

Filing Confirmation

When a disclosure report is filed on the CFS, a “Filing Confirmation” page will appear on your screen. You may print this page as a receipt. This page confirms that the report has been filed. It is strongly advised that you double-check that your report is properly filed by clicking on the “Candidate Filing System Public Site” link, click on the “Filing Confirmation” page, click “View Reports,” then type in the candidate’s name and click “Search.” When the candidate’s name comes up, click on the name of the candidate to confirm that the report is there. Neither the acknowledgment nor the receipt of the report constitutes expressed or implied approval, or in any manner indicates that the contents of the report fulfill the requirements of the campaign finance laws and rules.

Filing Amendments

The committee must electronically file an amended report if the committee:

- Is instructed or ordered by the Commission to amend the report; or
- Discovers that an earlier report contains erroneous information
 - Which does not conflict with the candidate’s and treasurer’s certification that the original report filing was true, complete, and accurate (e.g., correcting typos or errors in names/addresses of contributors or vendors); or
 - Conflicts with the candidate’s and treasurer’s certification that the original report filing was true, complete, and accurate; if so, this will likely be fined by the Commission (e.g., failing to report contributions or expenditures).

If discovered by the Commission, the Commission will inform you if your disclosure report is substantially defective or deficient. By law, the corrections must be electronically filed on or before the **14th day** after the notice of deficiency has been mailed to the candidate and candidate committee. A fine of \$50 for the first seven (7) days begins on the 15th day after the notice was mailed, and \$200 per day thereafter; provided that the fine shall not exceed 25% of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report. The minimum fine for not filing a corrected report more than eighteen (18) days after the notice, if assessed, shall be \$200.

The names of candidates and candidate committees that fail to timely correct a deficiency are published on the Commission’s website.

Fines for Failing to Timely File a Report

Candidates and candidate committees that fail to file a report by a reporting deadline are assessed a \$50 fine per day for the first seven (7) days, then \$200 per day thereafter, except for the 2nd Preliminary Primary Report and the 2nd Preliminary General Report for which the fines are \$300 per day; provided that the fine shall not exceed 25% of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report. The minimum fine for a report filed more than four (4) days after the due date, if assessed, shall be \$200. The minimum fine for the 2nd Preliminary Primary Report and the 2nd Preliminary General Report, if assessed, shall be \$300. To be timely filed, reports must be electronically filed on or before **11:59 p.m. Hawaiian standard time** on the filing deadline.

The names of candidates and candidate committees that fail to timely file a report are published on the Commission's website.

Public Inspection and Copies of Reports

All reports filed with the Commission are available for public inspection on the CFS public website at <https://csc.hawaii.gov/CFSPublic> or the Commission's website under "Candidate Committees," click on "Browse Data," then "Reports & Fundraiser Notices," and then click on "Candidate Contribution and Expenditure Reports and Organizational Reports" and "View Reports." Enter the candidate's name in the Search Box. When the candidate's name comes up, click on the candidate's name for a list of reports filed. Copies of reports may be downloaded from the CFS public website at no charge. Alternatively, copies may be purchased for a fee by visiting the Commission's office or making a request via telephone, fax, mail, or in person. All candidates for all state and local offices in the State of Hawaii were required to file electronically starting with the 2008 election.

Restrictions

The law prohibits anyone from selling or using information in reports for the purpose of soliciting contributions or for any commercial purpose.

IV. REPORTING CONTRIBUTIONS – SCHEDULE A

Contributions Defined

A contribution is anything of value given to influence the nomination for election, or election of any candidate to office, or for or against any issue on the ballot and includes the following:

- A gift;
- Subscription;
- Deposit of money or anything of value including personal services;
- Cancellation of a debt or legal obligation;
- Purchase of tickets to fundraisers;
- Services rendered to the candidate or candidate committee without charge or at an unreasonably low charge;

- A contract, promise, or agreement to make a contribution; and
- Any loans or advances that are not documented or disclosed.

All contributions received should be entered on “Schedule A – Contributions.” The CFS will aggregate all contributions for you.

A contribution does not include:

- Volunteer services;
- Candidate’s own funds (but reported as an “Other Receipt” under Schedule C);
- Loans or advances (but reported as “Loans” under Schedule D); and
- Unpaid internet activities for the purpose of influencing an election.

Monetary Contributions

A monetary contribution may be made to a candidate committee by check, debit card, credit card, or cash. Cash contributions of more than \$100 shall not be accepted by the candidate committee without issuing a receipt to the contributor.

For each contribution, the candidate committee must report the following on Schedule A:

- Date of deposit (the date a monetary contribution is deposited is deemed to be the date the contribution is received);
- Contributor’s full name and address;
- Contributor’s employer and occupation (if the contribution aggregates \$1,000 or more during the election period);
- Contribution amount for the reporting period; and
- Aggregate contribution amount from the contributor for the election period.

Non-Monetary Contributions

Non-monetary contributions are donations of goods or services offered without charge or at a charge that is less than the usual and normal charge for the goods or services.

If the goods or services are provided at less than the usual and normal charge, the amount of the non-monetary contribution which must be reported on the disclosure report is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount paid by the committee. Moreover, non-monetary contributions are aggregated with monetary contributions for contribution limit purposes.

All non-monetary contributions shall be reported in the same manner as monetary contributions on Schedule A.

- If a non-monetary contribution is received (i.e., reported on Schedule A), an identical off-setting expenditure on “Schedule B – Expenditures Made” must be entered into the CFS to avoid inflating the amount of the cash on hand.

Volunteers

When services are volunteered (i.e., the volunteer is not paid for by any person), this is not a non-monetary contribution.

However, if a person other than the candidate pays volunteers for their services, the activity is no longer considered voluntary and the payments are non-monetary contributions to the candidate from the person paying the volunteers.

Contributions Limits

How much a candidate committee may receive in contributions depends on what office is being sought. The following is a list of offices and their respective contribution limits during an election period:

- 2-year office (i.e., State House of Representatives, County Council (Hawaii, Maui, Kauai)) → \$2,000
- 4-year non-statewide office (i.e., State Senate, Mayor, Prosecuting Attorney, Honolulu City Council) → \$4,000
- 4-year statewide office (i.e., Governor, Lt. Governor, Office of Hawaiian Affairs) → \$6,000

No person or any other entity shall make contributions in excess of these limits.

“Election period” means the two-year period between general election days if a candidate is seeking nomination or election to a two-year office and the four-year period between general election days if a candidate is seeking nomination or election to a four-year office. For example, a candidate running for a two-year office in the 2022 election, the election period is November 4, 2020 (i.e., the day after the general election day in the preceding election) through the day of the next general election which is November 8, 2022. A candidate running for a four-year office in the 2022 election, the election period is November 7, 2018 (i.e., the day after the general election day in the preceding election) through November 8, 2022. Candidates running for a 4-year office in 2022 who ran for a state or county office in 2020 will have a two-year election period from November 4, 2020 through November 8, 2022.

Limits on Candidate’s Personal Funds

Loans and the use of personal funds by candidates to their own candidate committee are exempt from any limits. If a candidate contributes their own funds to their candidate committee, this is never reported on Schedule A. It would be reported either on “Schedule C – Other Receipts” (see Part VI) or “Schedule D – Loans” (see Part VII) depending on whether the candidate seeks reimbursement from their campaign funds.

Limits for the Candidate’s Immediate Family

Contributions from a candidate’s immediate family are exempt from the candidate’s contribution limits but are limited in the aggregate to \$50,000 in any election period. The \$50,000 aggregate limit includes any loans made for campaign purposes from the

candidate's immediate family to the candidate. A candidate's immediate family is defined as a candidate's spouse or reciprocal beneficiary, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses or reciprocal beneficiaries of such persons. If a candidate receives a loan from an immediate family member, this must be reported on "Schedule D - Loans" (see Part VII).

Spouse and Dependent Minor Contributions (Non-Immediate Family Contributions)

Married couples are treated as separate persons for contribution limit purposes. A person may not make a contribution on behalf of a spouse or any other individual. Any contribution by check will be attributed to the spouse that signs the check.

A contribution by a dependent minor must be reported in the name of the minor but is counted against the contribution limit of the minor's parent or guardian. Therefore, you must obtain the parent's name and enter it into the CFS if a contribution is received by a dependent minor.

Contributions to be Promptly Deposited; Acknowledgment

The date a contribution is deposited into the committee's financial institution is the date used for reporting that contribution. A contribution must be deposited no later than **seven (7) days** after a candidate or any individual authorized to receive contributions on behalf of the candidate has received the contribution.

Contributions may not be spent without first being deposited into the committee's financial institution.

Candidate committees using online payment processors for receiving contributions must ensure that contributions are deposited or transferred into the committee's depository account within seven (7) days of receipt.

Failure to timely deposit a contribution is a violation of the campaign finance laws and may result in an administrative fine. Therefore, the Commission recommends that the candidate devise a workable method to ensure that contributions are deposited in a timely manner.

Itemized Contributions

Monetary and non-monetary contributions of \$100 or less are not itemized on Schedule A. Only an aggregate total for the reporting period is reported on the disclosure report. However, once a contributor contributes an aggregate of more than \$100 for the election period, the contribution will be itemized on Schedule A.

For example, a contributor makes two (2) contributions to a candidate committee during the same election period. The contributor contributes \$50 during the first month of the election period. Because the contribution does not exceed \$100, the contribution will not be itemized. Instead, the \$50 is reported only on the disclosure report in the aggregate total of contributions of \$100 or less. Subsequently, the same contributor makes an additional contribution of \$100 during the same election period. This contribution will be

itemized, since the aggregate total of \$150 for the election period now exceeds the \$100 threshold.

Therefore, we strongly recommend that all contributions be entered on Schedule A because the CFS will aggregate all contributions you received during your election period. Additionally, even though you enter all contributions into Schedule A, only those contributions that aggregate more than \$100 will appear on the public site.

Earmarked Contributions

An earmarked contribution is a contribution received by a committee or party on the condition that the funds be contributed or expended on a specific candidate. When a party collects and transmits earmarked contributions to a candidate, the amount of the earmarked contribution is counted toward the contribution limit of the party and the person contributing such funds.

Fundraisers

A candidate may have any number of fundraisers. A fundraiser “means any function held for the benefit of a candidate or candidate committee that is intended or designed, directly or indirectly, to raise contributions for which the price or suggested contribution for attending the function is more than \$25 per person.”

A “Candidate Committee Notice of Intent to Hold a Fundraiser” must be filed with the Commission **prior to** the date and time of the fundraiser if the price or suggested contribution for attending the function is more than \$25 per person (i.e., \$25.01 or more). This form is available on our website under “Candidate Committees,” click on “Forms” or go to <http://ags.hawaii.gov/campaign/cc/cc-forms-2/>. The “Candidate Committee Notice of Intent to Hold a Fundraiser” form can be submitted by eSign or the Writable/Printable PDF can be completed, printed, signed and mailed, faxed, or delivered to the Commission office.

If this form is submitted to our office on the same day the event is scheduled, we must receive it prior to the time the fundraiser begins and before our office closes for the day. Failure to comply with this statutory requirement will result in a fine. Notices for fundraisers held on Saturday, Sunday, or State Holiday must be submitted to our office before 4:30 p.m. on the last business day prior to the Saturday, Sunday, or State Holiday.

The entire amount paid to attend a political fundraiser or to purchase a fundraiser ticket is a contribution. For example, if a contributor pays \$100 to buy a ticket to a candidate’s fundraiser, the contributor has made a \$100 contribution to the candidate even though the fundraising expenses may have cost the candidate \$35.

Multiple candidates may host joint fundraisers, but expenses must be shared or pro-rated. Contributions received from the fundraiser must be made to individual candidates and not to one candidate who later pays the other candidates.

Fundraising in government facilities is prohibited unless you pay a fee or have a reservation and the facility has no rules prohibiting it. Violation of the prohibition of fundraising on state or county property is a misdemeanor offense.

Prohibited Contributions

There are six (6) categories of prohibited contributions which are considered violations of the campaign finance laws. They are:

1 - Excess Contributions - An excess contribution is a contribution that exceeds the candidate's contribution limit. If an excess contribution is not deposited and is returned to the contributor within seven (7) days of receipt, the excess contribution is not required to be reported. If an excess contribution is returned to the contributor within thirty (30) days of receipt, the excess contribution must be reported to the Commission. The excess contributor may be subject to an administrative fine. Lastly, if the excess contribution is not returned to the contributor within thirty (30) days of receipt, the excess contribution must be reported to the Commission and will escheat to the Hawaii Election Campaign Fund. The excess contributor may be subject to an administrative fine.

2 - Nonresident Contributions - A nonresident contribution is a contribution from any person, except for a member of the candidate's immediate family, who is not a resident of the state at the time the contribution is made, including a noncandidate committee organized under the laws of another state and whose participants are not residents of the state. Nonresident contributions shall not exceed thirty percent (30%) of the total contributions received by a candidate or candidate's committee for each election period. Notably, if more than thirty percent (30%) of non-resident contributions were received for the candidate's election period, the excess contribution must be returned to the contributor within thirty (30) days of the end of the election period and the candidate committee may choose which nonresident contributions to return. If not, the excess amount shall escheat to the Hawaii Election Campaign Fund.

3 - False Name Contributions - A false name contribution is a contribution made in the name of another person. Contributions to candidates must be from a person's own money and reported in the name of the same person. A contribution by a person that is reimbursed or in any way compensated by another person (e.g., given a bonus) for that contribution is prohibited. All contributions made in the name of a person other than the owner of the funds shall escheat to the Hawaii Election Campaign Fund. Any person who violates the section of law that prohibits false name contributions shall be guilty of a class C felony.

4 - Anonymous Contributions – No candidate shall knowingly receive, accept, or retain an anonymous contribution of any amount, or enter or cause such contribution to be entered in the candidate's account as an anonymous contribution. If a candidate receives an anonymous contribution, the contribution shall escheat to the Hawaii Election Campaign Fund. Any person who violates the section of law that prohibits anonymous contributions shall be guilty of a class C felony.

Candidates may retain anonymous contributions that aggregate less than \$100 (i.e., \$99.99 or less) when obtained through multiple contributions made by ten (10) or more persons at the same political function (e.g., calabash bowls). Detailed records must be retained of the political function. It is strongly advised that someone (treasurer or deputy treasurer) should be there to keep a record on the number of people contributing to the bowl. Report the contributions as one lump sum using the deposit date for the contributions, the name of the function, and the address of where the function was held.

5 - Foreign National Contributions – No contributions or expenditures shall be made to or on behalf of a candidate by a foreign national or foreign corporation. A domestic subsidiary of a foreign corporation, a domestic corporation that is owned by a foreign national, or a local subsidiary where financial control is retained by the foreign corporation, may not make contributions or expenditures.

An individual is eligible to make a contribution to a candidate committee if the individual has a “green card” indicating that they have been lawfully admitted for permanent residence in the U.S.

A foreign-owned domestic corporation may make contributions to a candidate committee if the funds for the contributions are domestically-derived and foreign national individuals do not participate in the decisions concerning the contributions.

6 – State and County Contractor Contributions – Persons with certain contracts with the state, any of its counties, or any department or agency thereof, are prohibited from making contributions between execution and completion of the contract. These are contracts where funds are appropriated by the legislative body for the purchase or sale of state or county property; the rendition of personal services in the fields of health, law, engineering, architecture, construction, accounting, actuarial science, performing arts, or consulting; and the furnishing of materials, supplies, or equipment. The prohibition is against the person whose name is on the government contract and does not apply to contributions from sub-contractors who do not have their own government contract or from personal funds of employees, partners, shareholders, or officers of the business with the government contract. Notably, sole proprietors who are state or county contractors may not make contributions.

Refunds and Returned Contribution Checks

Contribution Refunds – When a candidate refunds a contribution, the candidate must report the refund on Schedule B as an expenditure.

Contribution Check with Insufficient Funds – If a candidate deposits a contribution check and the check is returned due to insufficient funds, the contributor’s check should be returned with a letter. If the contribution has not yet been reported, an amended disclosure report does not have to be filed. If, however, the contribution has been reported and the report has been electronically filed on the CFS, the candidate should file an amended disclosure report for the period that the contribution was originally reported in and subtract the amount of the contribution by entering a negative sign (-\$) in front of the contribution amount and refile the report in amend mode. Any reports that were filed after this amended report will also have to be refiled in amend mode due to the decrease in the committee’s cash on hand.

V. REPORTING EXPENDITURES – SCHEDULE B

Expenditure Guidelines

The following guidelines are provided here for reference purposes only. Candidates should consult with the Commission for any expenditure that may be of a questionable nature. There are further limitations on the types of expenditures permitted from public

funds by a candidate who receives public funds. Candidates who are interested in public funding should refer to the “Partial Public Funding Guidebook for Candidate Committees.”

Expenditures Defined

An expenditure, when made or incurred for the purpose of influencing the nomination for election, or election of any candidate to office whether or not the candidate has filed nomination papers, includes the following:

- Any purchase or transfer of money or anything of value;
- A promise or agreement to purchase or transfer money or anything of value;
- Any payment incurred or made; and
- The use or consumption of a non-monetary contribution.

For reporting purposes, an expenditure is made or incurred when the services are rendered or the product is delivered.

All expenditures are reported on Schedule B – Expenditures Made regardless of the amount. For each expenditure, the candidate must report the following on Schedule B:

- Date of the expenditure;
- Vendor's full name and address;
- Authorized use (campaign funds only used for certain purposes);
- Purpose of the expenditure (a brief description of why the expenditure was made); and
- Amount of the expenditure.

The candidate must itemize all expenditures to consultants, advertising agencies and similar firms, credit card payments, salaries, and committee reimbursements to the candidate or other individuals to permit a reasonable person to determine the ultimate intended recipient of the expenditures and their purpose. Expenditures reported under vague purposes or consolidated into categories such as petty cash, VISA, Master Card, reimbursement to employee, or ad agency, will not meet the requirements of the campaign finance laws.

An expenditure does not include:

- Volunteer services;
- Nonpartisan voter registration efforts; and
- Unpaid internet activities for the purpose of influencing an election.

Authorized Campaign Expenditures

There are eight (8) authorized categories for which candidate committee's campaign funds may be used. They are:

1 – Purchases Directly Related to a Candidate's Campaign – These are expenses that are predominantly and directly related to a candidate's campaign to influence the

nomination or election of the candidate. Authorized campaign expenditures include the following:

- Office rent for campaign headquarters;
- Advertisements;
- Banners, signs, flyers, brochures;
- Food for volunteers;
- Office supplies;
- Postage and mailing;
- Surveys, polls, and voter lists;
- Airfare and hotel accommodations to campaign;
- Meal or food expenses or entertainment incurred at a fundraising event or other campaign activity;
- Employee services;
- Professional services that are necessary in a candidate's campaign to seek the nomination or election of the candidate;
- Durable assets (non-consumable supply or equipment such as a computer, software, printer, camera, or cell phone with a minimum purchase value of \$250 and a useful life of 12 months or more) used for the candidate's campaign;
- Attend state or county political conventions (i.e., travel, meals, and registration, but not clothing or entertainment expenses);
- Reasonable expenses for a "mahalo" party;
- Penalties, fines, judgments, or settlements imposed on a candidate or candidate committee by a court or regulatory agency that are related to a campaign to seek the nomination or election of the candidate; and
- Gifts for campaign volunteers/employees subject to monetary thresholds in an election period (i.e., \$500 aggregate for a 2-year office, \$1,000 aggregate for a 4-year non-statewide office, and \$1,500 aggregate for a 4-year statewide office).

2 – Charitable Donations – Donations to any community service, educational, youth, recreational, charitable, scientific, or literary organization of up to twice the contribution limit of your office in an election period (i.e., \$4,000 for a 2-year office, \$8,000 for a 4-year non-statewide office, and \$12,000 for a 4-year statewide office). **However, you cannot make a charitable donation between the filing of your nomination papers and the general election unless you are declared duly and legally elected to office prior to the general election or are unsuccessful in the primary or special primary election**, and a candidate or candidate committee shall not use campaign funds to donate to organizations or trust funds established by a candidate or the candidate's committee, or organizations whose beneficiaries include the candidate, the candidate's immediate family members, officers of the candidate's committee and their immediate families.

3 – Donations to Public Schools or Public Libraries – Donations to any public school or public library of up to twice the contribution limit of your office in an election period (i.e., \$4,000 for a 2-year office, \$8,000 for a 4-year non-statewide office, and \$12,000 for a 4-year statewide office). There is no prohibited period for making donations to public schools or public libraries.

4 – Full-time Student Scholarships Awards – Scholarships to full-time students attending an institution of higher education or a vocational education school leading to a degree, certificate, or other recognized educational credential of up to twice the contribution limit of your office in an election period (i.e., \$4,000 for a 2-year office, \$8,000 for a 4-year non-statewide office, and \$12,000 for a 4-year statewide office). **However, you cannot make a scholarship award between the filing deadline for nomination papers and the general election unless you are declared duly and legally elected to office prior to the general election or are unsuccessful in the primary or special primary election**, and a candidate or candidate committee shall not use campaign funds for a scholarship for the candidate or candidate's immediate family.

5 – Two (2) Tickets to Fundraiser – The purchase of not more than two (2) tickets to an event held by another candidate or committee. The purchase of fundraiser tickets is considered a contribution to a candidate, subject to that candidate's contribution limit.

6 – Party Contributions – A contribution to your party not to exceed \$25,000 in any 2-year election period.

7 – Ordinary and Necessary Expenses as Elected Official – To pay for ordinary and necessary expenses incurred in connection with your duties as an office holder, including expenses incurred for membership fees in civic and community groups. Ordinary and necessary expenses means expenses incurred in connection with the candidate's duties as a holder of an elected state or county office. These expenses must be reasonable, usual, and directly related to the office. Examples include travel expenses to conduct State or county business, bonafide registration and travel expenses for conferences and workshops directly related to the elected official's duties and responsibilities, expenses to organize and host community meetings to disseminate information and gather public comment regarding issues relevant to the elected official, expenses for leis for official events or office events but not leis for other legislators, legislative opening day expenses and inaugural expenses for food and beverages to host constituents, and food and beverage for meeting constituents or office meetings that include others that are not staff members.

8 – Mixed Benefit – To purchase or lease goods or services that provide a mixed benefit to the candidate; provided that an amount attributed to a personal benefit for the candidate shall be determined and the candidate shall reimburse that amount to the committee unless the personal benefit to the candidate is de minimus. Examples include the following:

- Purchase or lease of a vehicle, including any operation and maintenance costs, where the title to the vehicle is in the name of the candidate committee;
- Reimbursement for the use of a personal vehicle at the federal optional standard mileage rate, not including operation and maintenance expenses, shall be authorized and documented for audit purposes at the time the vehicle is used (please contact the Commission to verify the mileage rate); and
- Lease of real property to a candidate or candidate committee for a renewable period not to exceed one year.

"De minimis" means that the personal use of the goods or services is 5% or less of the total use of the property or services in a calendar month and the expenditure for the

personal use of the goods or services does not exceed a usual and normal charge of \$100 in any one calendar month.

Advertising

Advertising is a common way campaign funds are expended. An advertisement means any communication, excluding sundry items⁵ such as clothing, bumper stickers, pins, buttons, and similar small items, that:

- Identifies a candidate directly or by implication and advocates or supports the nomination, opposition, or election of the candidate; or
- Identifies an issue or question that will appear on the ballot at the next applicable election and advocates the passage or defeat of an issue or question on the ballot.

If you place an advertisement for your campaign or against your opponent, including by electronic means, it must include a disclaimer that states:

- Who paid for the advertisement (i.e., “paid for by”) including the name and address of the candidate, committee, or other persons paying for the advertisement; and
- Notice in a prominent location that the advertisement is published, broadcast, televised, or circulated either “with the approval and authority of the candidate,” or “without the approval and authority of the candidate” (if the ad is paid for by a person other than the candidate or candidate committee).

NOTE: Radio advertisements must also provide the above disclaimer in audio.

The penalty for not complying with the requirements above is a fine of \$25 per advertisement for a first violation, a fine of \$100 per advertisement for a second violation, and a fine of \$500 per advertisement for a third violation for each advertisement that lacks the required disclaimer. Fines for further violations shall be determined by the Commission via a complaint, but cannot exceed an aggregate amount of \$5,000.

Electioneering Communications – Statement of Information Form

(*IMPORTANT NOTE: Effective starting with the 2022 Election, Statements of Information for Electioneering Communications will no longer be required for candidate committees and will be substantially changed for all other persons. In the meantime, the following applies to all persons, including candidates running for committees who make expenditures for electioneering communications in the Special Election for Kauai Prosecutor.)

⁵ Effective December 9, 2016, sundry items no longer includes banners and signs. See, HAR §3-160-2.

An electioneering communication is any advertisement that is broadcast from a cable, satellite, television, or radio broadcast station; published in any periodical or newspaper or by electronic means; or sent by mail at a bulk rate, and that: (1) Refers to a clearly identifiable candidate; (2) Is made, or scheduled to be made, either within **30 days prior to a primary or initial special election (i.e., November 18, 2021 to December 18, 2021)** or within **60 days prior to a general or special election (i.e., December 28, 2021 to February 26, 2022)**; and (3) Is not susceptible to any reasonable interpretation other than as an appeal to vote for or against a specific candidate.

Persons, which include an individual, a partnership, a candidate committee or noncandidate committee, a party, an association, a corporation, a business entity, an organization, or a labor union and its auxiliary committees, who make electioneering communications in an aggregate amount of **more than \$2,000** during any calendar year, are statutorily required to file a Statement of Information within **24 hours** of each disclosure date with the Commission.

“Disclosure date” means, for every calendar year, the first date by which a person has made expenditures during that same year of more than \$2,000 in the aggregate for electioneering communications, and the date of any subsequent expenditures by that person for electioneering communications.

For purposes of this requirement, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

The “Statement of Information for Electioneering Communications” form is available on the Commission’s website. Persons who fail to submit this form will be subject to a \$500 fine or a \$250 fine for filing it late. Notably, this form must be filed in addition to the filing of any other required report for candidate committees. The “Statement of Information for Electioneering Communications” form can be submitted by eSign or the Writable/Printable PDF can be completed, printed, signed and mailed, faxed, or delivered to the Commission.

Prohibited Expenditures

Campaign funds shall not be used:

- To campaign for or against another candidate outside the office to which they seek election; and
 - This includes door prizes for another candidate’s fundraiser or event (but you may use personal funds and it will be considered a non-monetary contribution).
 - There is an exception to this prohibition; that is, a candidate for Governor or Lt. Governor on the same ticket may support each other in the general election.
- For personal expenses.

Personal expenses means expenses that would exist irrespective of a candidate's campaign to seek nomination or election to office. Examples include the following:

- Household food items and supplies purchased for daily personal consumption by the candidate, a family member of the candidate, or candidate committee;
- Gifts or donations for weddings, Christmas, birthdays, funerals, or other personal occasions;
- Clothing usually and customarily worn for everyday wear; provided that a campaign expense for clothing identifying the candidate or campaign for an office shall not be prohibited;
- Tuition and educational fees or expenses not directly related to the performance of duties or responsibilities in a candidate's campaign for elected office;
- Mortgage, rent, and utility expenses for a personal residence; provided that if a clearly segregated portion of the personal residence is being used for campaign purposes, contributions may be used to reimburse the owner of the property a fair rental value for the actual apportioned and actual use of the personal residence;
- Entertainment or sporting events;
- Dues, fees, or other expenses to a country club, health club, recreational or exercise facility and not arising from a fundraising activity or function held at the facility;
- Compensation for personal services paid to the candidate or candidate's immediate family or relatives, unless the payments are for bona fide services necessary to maintain a campaign to influence the nomination or election of the candidate and is comparable to the compensation paid to other persons in the community providing similar services;
- Legal expenses not related to the nomination or election of a candidate; and
- Vacation expenses.

Campaign Expenditure Limits

The candidate can voluntarily agree to limit the candidate's campaign expenditures by filing the "Affidavit to Voluntarily Agree with Campaign Expenditure Limits" ("Affidavit") with the Commission. The candidate must agree to limit expenditures in both the primary election and general election. The last day to file the Affidavit is the date the candidate files nomination papers with the Chief Election Officer or County Clerk. Once the Affidavit is filed, it cannot be withdrawn.

The benefit of filing the Affidavit is that you will receive a discounted filing fee of your nomination papers (for example, \$25 versus \$250) and you can be eligible to receive partial public funding. Candidates interested in receiving public funds should also refer to the "Partial Public Funding Guidebook for Candidate Committees."

The expenditure limit periods are applied on a per election basis. For example, for the primary election in 2022, the expenditure limit period is from January 1, 2022 through August 13, 2022; and for the general election in 2022, the expenditure limit period is from August 14, 2022 through November 8, 2022. For a candidate who only appears on the general election ballot in 2022, the expenditure limit period is from January 1, 2022 through November 8, 2022.

A candidate who files the Affidavit and exceeds the respective expenditure limit for either the primary or general election is required to notify all opponents, the Office of Elections, and the Commission by telephone and in writing on the day the expenditure limit is exceeded. Further, the candidate must pay the balance of the full filing fee for nomination papers to the Office of Elections or to the respective County Clerk's Office, and provide reasonable notice to all contributors within thirty (30) days of exceeding the limit that the expenditure limit was exceeded.

VI. REPORTING OTHER RECEIPTS – SCHEDULE C

Candidates must report all "Other Receipts" that were received during the applicable reporting period on Schedule C – Other Receipts. Example of Other Receipts includes but are not limited to:

- Interest earned on the committee's bank account;
- Returns (by vendors), refunds, rebates;⁶
- Sales of Durable Assets;
- Candidate's use of personal funds that are not considered loans (i.e., no reimbursement expectation); and
- Public funds (Candidates participating in the Partial Public Funding Program).

Other Receipts are reported on Schedule C regardless of the amount. Schedule C contains the following information:

- Date of deposit;
- Source's full name and address;
- Description of the other receipt; and
- Amount of the other receipt.

VII. REPORTING LOANS – SCHEDULE D

Loans Defined

A loan is an advance of money, goods, or services with a promise to repay in full or in part within a specified period of time. Loans are reported on Schedule D.

Schedule D contains the following information:

- Source of the loan (Candidate, Immediate Family, Financial Institution, Other Persons);
- Date of the loan;
- Lender's full name and address;
- Purpose of the loan; and
- Amount of loan.

⁶ Rebates must be offered in the ordinary course of business and on the same terms and conditions as those offered to nonpolitical entities. Otherwise, they must be reported as contributions.

A loan does not include expenditures made on behalf of a committee by a candidate, volunteer, or employee if:

- The candidate's, volunteer's, or employee's aggregate expenditures do not exceed \$1,500 within a thirty (30) day period;
- A dated receipt, a written description of the name and address of each vendor with the amount, date, and purpose of each expenditure is provided to the committee before the committee reimburses the candidate, volunteer, or employee; and
- The committee reimburses the candidate, volunteer, or employee within forty-five (45) days of the expenditure being made.

Loan Types and Loan Limits

There are four (4) types of loans a candidate may accept. Depending on the entity giving the loan, there are loan limits that a candidate may accept.

1. Candidate's own funds → unlimited amount;
2. Financial institution regulated by the state or a federally chartered depository institution and made in accordance with applicable laws in the ordinary course of business → unlimited amount;
3. Candidate's immediate family → an aggregate amount of loans and contributions received that cannot exceed \$50,000 during an election period; and
4. Other persons → in an aggregate not to exceed \$10,000 during an election period (but may not receive any more loans until the entire \$10,000 is repaid). If the loan is not repaid within one (1) year of the date that the loan is made, all subsequent contributions received and any surplus retained shall be used to repay the outstanding loan in full.

Documentation and Repayment

Regardless of the type of loan, any loan to a candidate in excess of **\$100** shall be documented and disclosed to the Commission by reporting the following information:

- Lender's name, address, employer, occupation, and purpose of the loan; and
- Executed loan document containing the terms of the loan, repayment schedule, and interest rate. The "Executed Loan Document For Loans In Excess of \$100" form is available on our website and can be submitted by eSign or the Writable/Printable PDF by completing, printing, signing and mailing, faxing, or delivering the form to the Commission.

A copy of the executed loan document must be submitted to the Commission **by 4:30 p.m.** on or before the date the disclosure report for that reporting period is due. Failure to document the loan or disclose the loan to the Commission shall cause the loan to be treated as a contribution.

A loan must be reported until fully repaid. If a lender cancels the debt (forgives the loan) in whole or in part, the amount of the cancelled debt (loan) shall be treated as a contribution and will be applied to the contribution limit for that person.

All loan payments and loans forgiven are reported on Schedule D and never on Schedule B.

Candidate's Personal Funds

There is no limit on the funds a candidate may provide to their committee. When a candidate uses personal funds for campaign purposes, the candidate reports the personal funds as an "Other Receipt" (Schedule C) or a "Loan" (Schedule D) to the candidate's committee. If the candidate reports the personal funds as a loan, the candidate's committee may reimburse the candidate at a future time.

Outstanding Loans

A candidate may forgive and reclassify the candidate's personal loan to the candidate's committee as an "Other Receipt" (Schedule C). If a candidate reports the personal funds as an "Other Receipt," the candidate cannot be reimbursed. Loans from "immediate family members" and "other persons," with their permission, may be forgiven and reclassified as a contribution (Schedule A) subject to the candidate's contribution limits for immediate family members and persons.

VIII. REPORTING UNPAID EXPENDITURES – SCHEDULE E

Expenditures are made or incurred when services are rendered or the product is delivered. Expenditures, which are incurred, but not paid, are considered unpaid expenditures.

Schedule E contains the following information:

- Date of the unpaid expenditure;
- Vendor's full name and address;
- Authorized use (campaign funds only used for certain purposes);
- Purpose of the expenditure; and
- Amount of the unpaid expenditure.

Unpaid expenditures are reported regardless of the amount. Unpaid expenditures must be reported until payment is made in full or the debt is forgiven. Forgiven debts are considered non-monetary contributions subject to the candidate's contribution limit. For each unpaid expenditure forgiven, you must enter an off-setting contribution for the same amount on "Schedule A – Contributions" under the vendor's name.

Unpaid expenditures and paid unpaid expenditures are reported on Schedule E and never on Schedule B.

IX. REPORTING DURABLE ASSETS – SCHEDULE F

Durable assets are supplies and equipment purchased by the candidate committee with a purchase value of at least \$250 and a useful life of twelve (12) months or more. Durable assets include a cell phone, computer equipment, digital camera, printer, automobile, television, refrigerator or other similar goods to be used while the candidate committee is registered with the Commission.

The expenditure of funds for durable assets must be reported on both “Schedule B – Expenditures Made” and as a durable asset on “Schedule F – Durable Assets.” The sale or disposition of durable assets is also reported on Schedule F. If funds were obtained from the sale of a durable asset, the funds must be reported on “Schedule C – Other Receipts.”

Schedule F is used to report and track durable assets. Schedule F contains the following information:

- Date durable asset was acquired;
- Vendor’s/Contributor’s full name and address;
- Description of the durable asset; and
- Cost/value of the durable asset.

Durable assets are initially reported on Schedule F for the report covering the period that it was acquired in and automatically reported on Schedule F for all subsequent reports until the assets are disposed, sold or donated. Donations of durable assets are aggregated with charitable donations and donations to public schools or public libraries, and subject to the same limits if a durable asset is donated to one of these entities. The disposition of a durable asset is reported as follows:

- Date the durable asset was disposed;
- Method of disposition;
- Name of the person or entity receiving the durable asset; and
- Disposition amount.

X. SURPLUS FUNDS AND DISPOSITION OF FUNDS

Surplus Funds

Candidate committees must continue filing reports with the Commission until all surplus funds have been lawfully disbursed.

Surplus funds may be used after a general or special election for any of the eight (8) authorized expenditures listed under Part V of this Guidebook.

Surplus funds may be expended by a candidate for the candidate’s next subsequent election (state or local offices only) after the filing of an amended Organizational Report. This applies to candidates who failed to be nominated or elected to office who will be running again and candidates who are elected to office who will be running again for a different office to which they were elected and includes term-limited candidates.

Disposition of Funds

A candidate who receives contributions for an election but fails to file nomination papers for that election shall return residual funds to the contributors no later than **ninety (90) days** after the date on which nominations for that election must be filed. Funds not returned to contributors must escheat to the Hawaii Election Campaign Fund.

A candidate who withdraws or ceases to be a candidate because of death, disqualification, resignation, or other personal reasons shall return residual funds to the contributors no later than **ninety (90) days** after the candidate ceases to be a candidate. Funds not returned to contributors shall escheat to the Hawaii Election Campaign Fund.

A candidate who loses an election may use campaign funds for any of the eight (8) authorized expenditures listed under Part V of this Guidebook or return funds to contributors until **one (1) year** from the date of the election for which campaign funds were received. Funds not returned to contributors shall escheat to the Hawaii Election Campaign Fund.

A candidate who is elected to office may use campaign funds for any of the eight (8) authorized expenditures listed under Part V of this Guidebook or return funds to contributors until **four (4) years** from the date of the election for which campaign funds were received. Funds not returned to contributors shall escheat to the Hawaii Election Campaign Fund.

If a candidate does not win the election and the candidate has a deficit/debt including an outstanding loan or unpaid expenditure, the candidate must continue filing reports with the Commission until the deficit/debt has been cleared.

XI. TERMINATING REGISTRATION WITH THE COMMISSION

Termination of a candidate committee's registration with the Commission should be considered if:

- The candidate will no longer be receiving any contributions or making any expenditures reportable to the Commission;
- The balance of the candidate's campaign fund is zero (no surplus);
- There are no unpaid expenditures to be paid (no deficit); and
- There are no outstanding loans to be paid (no deficit).

The termination process begins by filing the "Candidate Committee Request for Termination of Registration" form with the Commission. A closing bank statement must accompany the termination of registration form to verify that all relevant bank accounts have been closed. If there are durable assets, the candidate committee must sell or otherwise dispose of the assets as permitted by law and report that on "Schedule F – Durable Assets" on the CFS. Any proceeds from the sale of a durable asset must also be reported on "Schedule C – Other Receipts" and be disbursed as permitted by law.

The filing of the termination form is only a request to terminate registration with the Commission. Termination of the committee occurs only upon approval by the

Commission and after all fines and penalties, if any, are paid, and all reports are filed. Once the Commission approves a request for termination, the candidate committee will no longer be required to file disclosure reports. The "Candidate Committee Request for Termination of Registration" form can be submitted by eSign or the Writable/Printable PDF by completing, printing, signing, and mailing, faxing, or delivering the form to the Commission.

XII. AUDIT AND ENFORCEMENT

The law authorizes the Commission to do random audits and investigations of committees.

The Commission also has enforcement authority. The Commission may issue an order affecting any person violating any provisions contained in the Hawaii Revised Statutes, Part XIII, Campaign Finance, and may assess an administrative fine up to \$1,000 for each violation of the campaign finance law, in addition to more specific fines for the late filing of disclosure reports, and the failure to include the proper disclaimers in advertisements. The Commission's authority to assess administrative fines is set forth in HRS §§11-314, 11-340, 11-391, 11-409, and 11-410. Pursuant to Hawaii Administrative Rules §3-160-73(a), the Commission has adopted a Schedule of Fines for violations of the campaign finance laws. This fine schedule is available for viewing on the Commission's website at <http://ags.hawaii.gov/campaign/legal-resources/schedule-of-fines/>.

If you are in violation of the campaign spending laws, the Commission will provide you with written notice of the violation via first class mail. For certain violations (i.e., late reports, excess contributions, defective advertisement disclaimers, and electioneering communications), if the fine exceeds \$25 and if it is your first or second violation for that category, you are eligible for a conciliation agreement which would reduce your fine by two-thirds for the first violation and one-half for the second violation. These agreements must be approved by the Commission at a duly noticed public Sunshine meeting. If, however, you believe that you would like to challenge the violation and the fine, you may opt for the matter to be handled via a complaint. If you elect this process, the Commission will generate a complaint and set the matter to be heard at a duly noticed public Sunshine meeting for the Commissioners to hear your position and decide how to proceed which may include ordering the full amount of the fine even if you are eligible for a conciliation agreement. You are encouraged to contact the Commission if you have any questions concerning these procedures.

It is noteworthy that rather than handling a violation in a civil or administrative manner, the Commission may recommend that a violation be referred for criminal prosecution. The campaign finance laws provide that any person who recklessly, knowingly, or intentionally violates any provision of the campaign finance laws shall be guilty of a misdemeanor.

Any person who knowingly or intentionally falsifies any report required by the campaign finance laws with the intent to circumvent the law or deceive the Commission or who violates the anonymous contribution prohibition or false name contribution prohibition shall be guilty of a class C felony and is not eligible for a deferred acceptance of guilty or nolo contendere plea.

A person who is convicted shall be disqualified from holding elective public office for a period of four (4) years from the date of conviction.

The Commission strongly advises candidates to become familiar with the campaign finance laws and rules, file all reports on time, be aware of all areas in this Guidebook and the law that have a time sensitive deadline, respond to requests or communication from the Commission, and contact the Commission if you have any questions to avoid having enforcement actions taken against you.

XIII. TRAINING

The Commission offers on-line training available twenty-four (24) hours as well as guidebooks and manuals to assist committees on its website.

The Commission also offers in-person training. Training classes are generally scheduled in late May through early June in an election year. Please check our website for class announcements and registrations.

Notably, the Commission is registered with the Hawaii State Board of Accountancy as a sponsor of continuing professional education.

One (1) credit for each hour of class time is given. The following classes are sponsored and offered by the Commission:

- Candidate and Candidate Committees – two (2) hour class for two (2) credits;
- Public Financing for Candidates – one (1) hour class for one (1) credit; and
- Noncandidate Committees – one (1) hour class for one (1) credit.